

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF RHODE ISLAND**

THICCC BOY PRODUCTIONS, INC.,	:	Case No. 1:22-cv-00090-MSM-PAS
	:	
Plaintiff,	:	
	:	
v.	:	
	:	
KYLE SWINDELLES, <i>et al.</i> ,	:	
	:	
Defendants.	:	

**RULE 56 STATEMENT OF UNDISPUTED FACTS**  
**IN SUPPORT OF DEFENDANT’S MOTION FOR SUMMARY JUDGMENT**

Defendant Kyle Swindelles respectfully submits this statement, pursuant to Local Rule Cv 56 of the United States District Court for the District of Rhode Island, in support of his motion for summary judgment. The material facts as to which there is no genuine issue to be tried are as follows:

1. Plaintiff Thiccc Boy Productions, Inc. is a Colorado corporation. *Complaint* at Paragraph 1.
2. Defendant Kyle Swindelles is a YouTube content creator residing in Providence, Rhode Island. *Complaint* at ¶ 2.
3. Plaintiff owns copyrighted audiovisual works for the podcast The Fighter and the Kid (“TFATK”), including the individual episodes:
  - a. TFATK Episode 725 (Sept. 7, 2021);
  - b. TFATK Episode 726 (Sept. 8, 2021);
  - c. TFATK Episode 729 (Sept. 20, 2021); and
  - d. TFATK Episode 740 (Oct. 25, 2021). *Complaint* at ¶ 7.

4. YouTube is an online video streaming service. Videos on the site can be viewed and listened to by viewers. *Complaint* at ¶ 9.
5. On February 15, 2022, and February 16, 2022, Plaintiff sent YouTube Digital Millennium Copyright Act (“DMCA”) takedown notices regarding Defendant’s audiovisual content. *Complaint* at ¶ 13.
6. On February 18, 2022, and February 19, 2022, Defendant sent YouTube DMCA counter-notifications to dispute Plaintiff’s takedown notices. *Complaint* at ¶ 14.
7. On February 22, 2022, Plaintiff registered the above-named episodes of TFATK with the United States Copyright Office. *Complaint* at ¶ 8.
8. On February 28, 2022, Plaintiff filed suit for copyright infringement in this Court. *Complaint*.
9. TFATK Episode 725 is an audiovisual work uploaded to YouTube on September 7, 2021. **Exhibit A**; [https://youtu.be/tmxp\\_I7XmlA](https://youtu.be/tmxp_I7XmlA).
10. TFATK Episode 725 has an approximate total runtime of one (1) hour, twenty-five (25) minutes, six (6) seconds, or about eighty-five (85) minutes. **Ex. A**.
11. TFATK Episode 726 is an audiovisual work uploaded to YouTube on September 8, 2021. **Exhibit B**; <https://youtu.be/PGx8vfPE6cc>.
12. TFATK Episode 726 has an approximate total runtime of one (1) hour, forty-eight (48) minutes, six (6) seconds, or about one hundred eight (108) minutes. **Ex. B**.
13. TFATK Episode 729 is an audiovisual work uploaded to YouTube on September 20, 2021. **Exhibit C**; <https://youtu.be/jnjlNHektdw>.
14. TFATK Episode 729 has an approximate total runtime of one (1) hour, twenty-one (21) minutes, thirty-four (34) seconds, or about eighty-two (82) minutes. **Ex. C**.

15. TFATK Episode 740 is an audiovisual work uploaded to YouTube on October 25, 2021.

**Exhibit D**; [https://youtu.be/\\_kzcXjJuv2A](https://youtu.be/_kzcXjJuv2A).

16. TFATK Episode 740 has a total runtime of approximately one (1) hour, thirty-nine (39) minutes, thirty-two (32) seconds, or about one hundred (100) minutes. **Ex. D.**

17. The four episodes of TFATK named by Plaintiff have a total combined runtime of just over six (6) hours, fourteen (14) minutes. **Exs. A, B, C, D.**

18. “Yew Neek Reaction Video: Schaub Apology” (hereinafter “Reaction Video 1”) is an audiovisual work uploaded to YouTube by Defendant Kyle Swindelles. **Exhibit E.**

19. “Reaction Video 1” has a total runtime of approximately nine (9) minutes, forty-one (41) seconds. **Ex. E.**

20. “Reaction Video 1” uses a clip from TFATK Episode 725 with a runtime of approximately seven (7) minutes, thirty-two (32) seconds. **Exs. A, E.**

21. “Yew Neek Short: Schaub Response” (hereinafter “Short 1”) is an audiovisual work uploaded to YouTube by Defendant Kyle Swindelles. **Exhibit F.**

22. “Short 1” has a total runtime of approximately one (1) minute, fifty-one (51) seconds. **Ex. F.**

23. “Short 1” uses a clip from TFATK Episode 726 with a runtime of approximately thirty-nine (39) seconds. **Exs. B, F.**

24. “Yew Neek Reaction Video: Schaub Trashes Howard Stern” (hereinafter “Reaction Video 2”) is an audiovisual work uploaded to YouTube by Defendant Kyle Swindelles. **Exhibit G.**

25. “Reaction Video 2” has a total runtime of approximately eleven (11) minutes, twenty-five (25) seconds. **Ex. G.**

26. “Reaction Video 2” uses a clip from TFATK Episode 729 with a runtime of approximately eight (8) minutes, fifty-five (55) seconds. **Exs. C, G.**
27. “Yew Neek Short: Reunion” (hereinafter “Short 2”) is an audiovisual work uploaded to YouTube by Defendant Kyle Swindelles. **Exhibit H.**
28. “Short 2” has a total run time of approximately two (2) minutes, eight (8) seconds. **Ex. H.**
29. “Short 2” uses a clip from TFATK Episode 740 with a runtime of approximately fifty-three (53) seconds. **Exs. D, H.**
30. The four Yew Neek videos named by Plaintiff have a total combined runtime of approximately twenty-five (25) minutes, six (6) seconds. **Exs. E, F, G, H.**

Respectfully submitted,

A handwritten signature in black ink that reads "Kyle Swindelles". The signature is written in a cursive, slightly slanted style. Below the signature is a thick, solid black horizontal line.

Kyle Swindelles, Defendant, *pro se*  
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